

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1119

Introduced by Assembly Member Wesson

February 21, 2003

An act to add Title 4.7 (commencing with Section 13630) to Part 4 of the Penal Code, relating to law enforcement agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1119, as amended, Wesson. Law enforcement agencies.

Existing law generally regulates the duties and training of peace officers in connection to their employing agencies.

This bill would, commencing ~~with January 1, 2006~~ 2005, require law enforcement entities employing peace officers to implement an “early warning system,” as described.

By requiring local law enforcement agencies to implement this program, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Title 4.7 (commencing with Section 13630) is added to Part 4 of the Penal Code, to read:

TITLE 4.7. LAW ENFORCEMENT AGENCY PROGRAMS

~~13630. Commencing January 1, 2006, every law enforcement entity employing peace officers shall implement an “early warning system” designed to detect negative performance and behavior patterns among peace officers in their incipient stages so that effective corrective action may be initiated. The early warning system shall include a program to address, ameliorate and eliminate patterns of unacceptable conduct or behavior detected among individual peace officers. The program should include psychological testing, counseling, reeducation and training, and appropriate disciplinary procedures.~~

13630. (a) For the purpose of this section, an Early Warning System is a proactive, nondisciplinary system intended to enhance awareness by employees, managers, and supervisors of potential employee problems before they become so serious that they require discipline or cause liability.

(b) (1) Commencing January 1, 2005, every law enforcement agency employing peace officers shall develop, in consultation with the peace officer employee organization, regulations for an Early Warning System establishing procedures and responsibilities for the tracking and review of reportable incidents and behavior patterns of peace officers that warrant intervention. The system shall provide an array of timely, nondisciplinary, corrective steps to remedy any incipient problems or deficiencies in a peace officers performance, policy, strategy, or tactics.

(2) The Early Warning System shall not be used as a disciplinary measure nor shall it prevent the department from administering discipline.

(c) The early warning system regulations established pursuant to this section should provide for computerized systems and shall rely on a number of reportable incidents in determining which

1 *officers demonstrate patterns of behavior that necessitate early*
2 *intervention. The reportable incidents shall include, but are not*
3 *limited to, the following information in determining which officers*
4 *are identified for participation in the early warning system:*

5 *(1) Use of force incidents.*

6 *(2) Citizen complaints including the nature of allegations.*

7 *(3) Internally generated complaints including the nature of*
8 *allegations.*

9 *(4) Disciplinary actions taken.*

10 *(5) Civil suits or tort claims related to the peace officer's*
11 *employment.*

12 *(6) Criminal arrests and charges against members or*
13 *employees.*

14 *(7) Allegations of violations of department policy.*

15 *(d) Each law enforcement agency shall develop guidelines for*
16 *determining, based on the information listed in subdivision (c),*
17 *which officers are appropriate subjects for intervention. The*
18 *guidelines shall require, at a minimum, appropriate intervention*
19 *for officers who are involved in three or more reportable incidents,*
20 *or any combination thereof, listed in subdivision (c), within a*
21 *certain time period not to exceed an 18-month period.*

22 *(e) The regulations developed by the agency for the system*
23 *shall require supervisors to review and analyze, on at least a*
24 *quarterly basis, early warning system information to detect any*
25 *individual or unit patterns of behavior that may require*
26 *intervention.*

27 *(f) Officers who are identified by the early warning system shall*
28 *receive intervention, which may include, but is not limited to:*

29 *(1) Retraining or other remedial action or both, or a*
30 *determination that no further action is required.*

31 *(2) Modification of the employee's working conditions or*
32 *assignment to the extent that the modification is within the*
33 *authority of the peace officer's commanding officer.*

34 *(3) Referral of the employee to the department's Peer*
35 *Counseling Program or other counseling program that may be*
36 *applicable.*

37 *(4) Referral of the employee to the department's contract*
38 *psychologist, the Peace Officer Association contract psychologist*
39 *or a psychologist chosen by the peace officer for counseling at the*
40 *department's expense.*

1 (g) *Individually identifiable early warning system information*
2 *shall be maintained by the agency for the duration of an officer's*
3 *employment and at least five years thereafter. Information*
4 *necessary for aggregate statistical analysis shall be maintained*
5 *indefinitely.*

6 (h) *The information regarding individual officers maintained*
7 *by the agency as a result of this section shall be deemed personnel*
8 *records for purposes of the California Public Records Act*
9 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*
10 *Title 1 of the Government Code) and Section 1043 of the Evidence*
11 *Code.*

12 (i) *Nothing in this section is intended to replace an agency's*
13 *existing early warning system.*

14 SEC. 2. Notwithstanding Section 17610 of the Government
15 Code, if the Commission on State Mandates determines that this
16 act contains costs mandated by the state, reimbursement to local
17 agencies and school districts for those costs shall be made pursuant
18 to Part 7 (commencing with Section 17500) of Division 4 of Title
19 2 of the Government Code. If the statewide cost of the claim for
20 reimbursement does not exceed one million dollars (\$1,000,000),
21 reimbursement shall be made from the State Mandates Claims
22 Fund.

